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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/823,696

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Kazuhiro Macda

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EXAMINER

KANGARLOO, RAMTIN

ART UNIT

PAPER NUMBER

2609

MAIL DATE

DELIVERY MODE

10/03/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/823,696

Applicant(s)

MAEDA ET AL.

Examiner

Ramtin Kangarloo

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 9/16/2006 and 4/14/2004.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application
- ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 3, 4, 6, and 9-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Nishi (US Patent No. 7254645).

Regarding **claim 1**, Nishi discloses a communications terminal comprising: a communication section for establishing communication (See col. 4, Lines 26-29); a storage section for storing a program (See col. 5, Lines 53-55); a control section for controlling said communication section and said storage section (See col. 4, Lines 52-59); and a usage storage section for storing the usage status (See col. 6, Lines 29-31); wherein the program stored in said storage section is updated using usage status stored in said usage storage section (See col. 7, Lines 39-44).

Regarding **claim 3**, Nishi discloses the communications terminal according to claim 1, wherein said usage storage section stores the time or frequency of use of the program stored in said storage section, (See col. 6, Lines 5-11) and wherein the programs are updated only when said time or frequency of use is above a predefined level (See col. 17, Lines 1-6).

Regarding **claim 4**, Nishi discloses a communications terminal comprising: a communication section for establishing communication (See col. 4, Lines 26-29); a storage section for storing a program (See col. 5, Lines 53-55); a control section for controlling said communication section and said storage section (See col. 4, Lines 52-59); and a usage storage section for storing the usage status (See col. 6, Lines 29-31); where in the usage status stored in said usage storage section is used to update the data stored in said storage section. (See col. 7, Lines 39-44).

Regarding **claim 6**, Nishi discloses the communications terminal according to claim 4, wherein said usage storage section stores the time or frequency of use of the data stored in said storage section, (See col. 6, Lines 5-11) and wherein the data is updated only when said time or frequency of use is above a predefined level (See col. 17, Lines 1-6).

Regarding **claim 9**, Nishi discloses a communication system comprising: a communications terminal which includes a communication section for establishing communication, a storage section for storing a program and data, and a control section for controlling said communication section and said storage section; (See col. 4, Lines 26-29 and col. 5, Lines 1-3 and col. 4, Lines 52-59) and a server which includes a communication section for communicating with said communications terminal via a communication network, a storage section for storing an update program and data, and a control section for controlling said communication section and said storage section (See col. 7, Lines 31-38); wherein said communications terminal includes a usage storage section for storing the usage status of the communications terminal, and transmits an update request for the program or data stored in the storage section to said server in accordance with the usage status stored in the usage storage section; and wherein, upon receipt of said update request for the program or data from said communications terminal, said server transmits the update program or update data to said communications terminal (See col. 7, Lines 39-44).

Regarding **claim 10 and 11**, Nishi discloses a method for updating a communications terminal program, comprising the steps of: storing the usage status of a communications terminal; and updating a program in accordance with said usage status stored (See col. 7, Lines 39-45).

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3. Claim 12 is rejected under 35 U.S.C. 102(e) as being anticipated by Nagai (US Patent Application Publication No. 2005/0005141).

Regarding **claim 12**, Nagai discloses an information processing device for performing a first information process and a second information process, comprising: a usage storage section for storing execution information about said first information process, wherein the execution information about said first information process, which is stored in said usage storage section, is used to perform a second information process (See Abstract, Lines 4–10).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2, 5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nishi (US Patent No. 7254645).

Regarding **claim 2 and 5**, Nishi disclosed all of the limitation as applied to claim 1 and 4. Nishi does not disclosed usage storage section stores the

date/time, day of the week, or time slot during which the communications terminal is used, and wherein said program is updated at a time other than stored said date/time, day of the week, or time slot. However, as common knowledge, it was known in the art that updating process would perform better if it occurs at the time the storage is available.

Therefore, It would have been obvious to one having ordinary skill in the art at the time the invention was made that updating the program or data at the time that system is inactive, would help to run both process faster.

Regarding **claim 7**, Nishi disclose a communications terminal comprising: a communication section for establishing communication; a storage section for storing a program and data; and a control section for controlling said communication section and said storage section communication (See col. 4, Lines 26-29 and col. 5, Lines 1-3 and col. 4, Lines 52-59); Nishi does not disclose if said storage section does not have a free space for updating said program or data, said communication section transmits part of the program or data stored in said storage section to a server; and wherein said storage section deletes said transmitted part of the program or data and updates said program or data. It would have been obvious to one having ordinary skill in the art at the time the invention was made to delete unnecessary data, especially when there is a lack of free space, because it was known in the art that to make a space available in storage, existed data would be deleted for the new data.

6. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nishi (US Patent No. 7254645) in view of Deng (US Patent Application Publication No. 2002/0029351)

Regarding **claim 8**, Nishi disclosed a communications terminal comprising: a communication section for establishing communication (See col. 4, Lines 26-29); a storage section for storing a program and data (See col. 5, Lines 53-55); and a control section for controlling said communication section and said storage section (See col. 4, Lines 52-59); Nishi does not disclosed program or data is updated only when the user is privileged to use said program or data. Deng teaches program or data is updated only when the user is privileged to use said program or data (See Abstract, Lines 20–22).

Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to mount program update taught by Deng onto the communication system as shown in Nishi, in order to restore data so that the systems become well organized.

Conclusion

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7. Any response to this Office Action should be **faxed** to (571) 273-8300 or
Mailed

to :

Commissioner for Patents,
P.O.Box 1450
Alexandria, VA 22313-1450

Hand-delivered responses should be brought to

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramtin Kangarloo whose telephone number is (571) 270-3452. The examiner can normally be reached on Monday to Thursday 7:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Benny Tieu can be reached on (571) 272-7490. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ramtin Kangarloo

Examiner Art Unit 2609

September 10, 2007



BENNY Q. TIEU
SPE / TRAINER